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Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Dear Task Force Chairmen Robert Stern and Charles H. Bell, Jr.,

We would like to extend our thanks for your work on the Fair Political Practices Commission Political Reform Act Task Force. This updating process is long overdue. In addition, we want to offer our comments on what improvements would benefit the State of California.

With regard to an official electronic filing system, we strongly support its creation. Further, we recommend that the web-based reporting from this system mirror the realities on the ground. For example, if I look up the political donations of a company the first visuals I see should include its total spending in an election cycle and throughout its history, aggregated for the user. The various committees the entity funnels money through should be secondary information, while the total giving value primary. Similarly, when I look up a candidate, the top donors should be ranked in order with aggregated data so committees created to funnel money are not a hurdle to transparency. Totals from in-state and out-of-state donors should also be visible. When there are multiple committees involved in a ballot campaign or with independent expenditures regarding candidates, the web disclosure should aggregate the total spending for and against a measure or candidate. A user should also be able to sort the larger body of information by date and donor as well as download the data for easy usage (e.g. in an Excel format).

Changing filing deadlines is also of concern. We support using FEC monthly filing deadlines only if pre-election and 24 hour filing requirements are included. Number five in this section reads, "Require ballot measure proponents to include AG ID number in committee name until the measure has a proposition number." We suggest that having the Secretary of State assign a number upon committee registration may be easier. More, we do not support the elimination of special filing requirements for political parties. Although a more efficient filing system may be cause to eliminate some steps, knowing what political party committees are receiving and spending is important, because parties can be used to hide contributions for those who do not wish to be known.

Concerning campaign finance disclosure thresholds, we suggest that basic contribution information for all donors over the \$100 threshold be available for search even if the disclosure of address and profession threshold is raised to \$200. Often times, a donor will give many candidates small donations in order to avoid public disclosure.

Separately, we do not see the public interest reason for increasing disclosure thresholds. Under current law, a donor could give \$99 to multiple candidates and remain undisclosed. Raising the threshold to \$200 would bump this amount to \$199.

While we do not recommend increasing the state thresholds for committee registration, we strongly oppose increased thresholds for local races. Furthermore, the clarification and simplification of the “one bite” rule in online filing would help the small and newly activated political activist groups. Lastly, issue advocacy thresholds may be decreased at the state level, but they also have to be decreased at the local level.

Campaign finance disclosure rules in California are better than many states, but there are still “lawless” areas that need to be brought out into the sunlight. For example, the City of Bell and Manhattan Beach do not have disclosure rules or contribution limits for local races. A statewide minimum set of campaign finance disclosure rules remedy this. Municipalities should be allowed to make them stronger, but not weaker.

Committee classification is also an area of law that needs to be tightened. Legal control of committees has been a gray area for politicians to capitalize on. The FPPC was right to issue regulations on candidate controlled ballot committees after former Lieutenant Governor Cruz Bustamante used a loophole in regulation to run for governor during the 2003 recall election. Bustamante used a ballot measure campaign to raise unlimited amounts of money to raise his profile, while avoiding the campaign contribution limits for his own candidate committee. When Governor Schwarzenegger created a front group that could raise unlimited amounts money in 2004 to pass his slate of ballot measures, the courts subsequently struck that FPPC rule, but left room for the legislature to re-enact it. We have also seen press accounts of members of Congress, such as Howard Berman, raising funds for ballot measure campaigns that were arguably controlled by members of their family. With drastic illustrations of the problem, we think a new definition of “legal control” is in order. First, the former FPPC regulation (18530.9) that closed the Bustamante loophole should be reinstated by either the FPPC or the legislature. The definition of “agent” should include “immediate family,” defined as one with whom the person has a bona fide relationship established through blood or legal relation, including parents, children, siblings, and in-laws. Gifts made at the behest of a candidate or official to non-profit entities should also be included.

For robocalls in California, we support sending the script to the FPPC, but we also think an audio file should be sent. These two items should be available to view and listen to from the disclosure page. We do not support shortening the disclosure requirements for these calls. Phone calls are particularly difficult to trace, therefore full disclosure is important.

Similarly, slate mailers also need further disclosure. Voters receive these mailers and sometimes use them to vote, only to find out afterward that they have been manipulated. Slotting an issue or candidate in the middle of familiar ones to the voter, but who do not resemble them necessitates more disclosure at the very least. We suggest that instead of an asterisk next to the names of committees, there should be dollar amounts that the campaign paid for placement on the slate. As with other paid ads, the disclosure should also list the top two donors to a committee. More, if a word is used in the mailer that is also part of the name of a political party, in the same size font immediately next to it should read, “this is not authorized by the [POLITICAL PARTY NAME].” In addition, we support applying contribution limits to slate



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mailer placement of candidates on the slate mailer for less than market value if that placement is coordinated with a candidate and disclosure of the value of the placement for all candidates and measures.

For expenditure disclosure rules, lifting the threshold works, but only if aggregate spending by vendors is triggered and disclosed. The real story of a campaign is difficult for a voter to put together, therefore putting the date on expenditure reports will improve our chances. Television and radio advertising is still the most effective means of campaign spending. This is where the big money is spent. We need to have more disclosure, not less, for media buys. As soon as an ad goes live, the vendor and the media outlet should be reported. In addition, spending on bloggers or other new media should not only be disclosed, but the disclosure page should have a link to the blog. More, at least the profile of the blogger should disclose the source of the financial backing (e.g. paid for by the John Smith campaign).

With regard to conflicts of interest, we support further transparency of financial tools that serve to hide conflicts of interest. Former Assembly Speaker Fabian Nunez received \$35,000 from labor groups while in office to be a political consultant for them at the same time he was deciding on issues affecting them in his Speaker position. Governor Schwarzenegger has a similar story. He created an umbrella group called Oak Productions that received much of his outside income. Although the sources of the income were disclosed, the amounts were not, effectively hiding an \$8 million contract with American Media while in office. The COI disclosures should cover all entities legally controlled by an official, including subsidiary sources of income.

Further, we support the creation of something akin to a California version of the federal DISCLOSE Act proposal that allows for sunshine in opaque entities, like the California Chamber of Commerce, that spend millions to influence campaigns without any accountability tool for the public to employ. The recently enacted FPPC rules expanding the magic words test for express advocacy should be helpful here, but we are concerned that a great deal of election related spending will still be able to be funneled through non-profit and trade association sources that do not reveal original sources.

Thank you for your attention to these issues,

Sincerely,

Katie Fleming
Policy Advocate

Kathay Feng
Executive Director